

REMARKS

Non-Statutory Double Patenting

The Examiner has rejected claims 1-16 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,420,150 (the '150 Patent) . The Examiner stated that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because they are claiming the same nucleic acid molecules, host cells and vectors."

The Applicants respectfully traverse the rejection on the grounds that the nucleic acid molecules of the '150 Patent would not encompass the nucleic acid molecules of the present application. Nonetheless, to expedite prosecution, the applicants have submitted a Terminal Disclaimer and appropriate fees, to disclaim the period of the present application, that upon issue would extend beyond the expiration of the commonly-owned U.S. Patent No. 6,420,150.

Additional Comments

Applicants acknowledge, with thanks, the Examiner's statement that after reviewing the parent applications and three references that were cited in a PCT search report (Rosenberg et al., WO 99/22005, May 1999; Shworak et al., *J. Biol. Chem.* 272(44):28008-28019, 1997; and Habuchi et al., *Biochim Biophys Acta*, 1474:115-127, 2000; all cited by the Examiner on a PTO Form 892, as part of the paper mailed July 22, 2004) the Examiner "has not found any prior art that would anticipate or render obvious the instant claims. None of the reference [sic] cited in the PCT search report disclose SEQ ID NO:1-3."

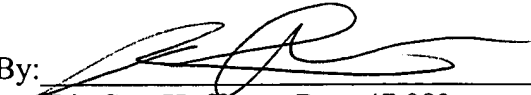
Conclusion

Claims 1, 2, 24 and 25 are under consideration by the Examiner. In view of the above remarks, Applicants respectfully submit that the application and claims are in condition for allowance, and request that the Examiner reconsider and withdraw the objections and rejections. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is invited to call the undersigned agent should

the Examiner believe a telephone interview would advance prosecution of the application.

Respectfully submitted,
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